

HAWAII ADMINISTRATIVE RULES

TITLE 12

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

SUBTITLE 8

DIVISION OF OCCUPATIONAL SAFETY AND HEALTH

PART 3

CONSTRUCTION STANDARDS

CHAPTER 110

GENERAL SAFETY AND HEALTH REQUIREMENTS

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Historical Note: Chapter 110 of title 12 is based upon chapter 201 of the Hawaii Occupational Safety and Health Standards, Rules and Regulations. [Eff 7/11/74; am 6/7/76; am 12/30/76]

§12-110-1 Application. The general requirements of any chapter in part 3 shall not be used when there are more specific requirements in any other chapter in part 3. Parts 1, 3, and 8 (except chapter 12-200) contain the only standards applicable to construction work. For the purposes of these parts, construction work means work for construction, alteration, demolition, or repair including painting and decorating, erection of new electric transmission and distribution lines and equipment, and the alteration, conversion, and improvement of the existing transmission and distribution lines and equipment. [Eff 7/12/82; am 8/5/88]
(Auth: HRS §396-4) (Imp: HRS §396-4)

§12-110-2 Safety and health programs. (a) Scope and application.

This standard shall apply to all employers with employees doing business in the State.

- (1) Every employer shall comply with the State laws and standards regarding a safe place of employment and safe practices, and shall do everything reasonable and necessary to protect the life, safety, and health of the employees.
- (2) Employers involved with construction or related activities shall provide safe and healthful work places and practices that protect the employees and the affected general public as well.
- (3) Every employer shall effect safe work places and practices by eliminating, mitigating, or protecting against existing or potential hazards. Elimination by design, process substitution, or other appropriate methods is preferred because it obviates the need for further employee protection. Modification, using such methods as engineering or administrative controls, isolation, and guarding, shall be used to reduce existing hazards. When this mitigation is feasible, it shall be effected expeditiously, with personal protective equipment required until an acceptable reduction of the hazard in the situation or condition is reached. Whenever it is not feasible to eliminate or reduce hazards to acceptable levels or where hazards continue to exist, personal protective equipment shall be provided and used.

Exception: Employers with less than 25 employees and not doing contract work with the State of Hawaii worth in excess of \$100,000 need not comply with (b)(1) below.

(b) Employer duties and responsibilities. An employer subject to this standard shall meet the following requirements:

- (1) Written safety and health program.
 - (A) The employer shall institute and maintain an effective safety and health program to identify, evaluate and control workplace hazards. Employer safety and health programs that were developed prior to the promulgation of this standard may be used to satisfy this requirement so long as they meet the criteria for an acceptable program set forth in (B) below.
 - (B) The program shall at a minimum:
 - (i) Set forth policies, procedures, and practices that recognize and protect employees from occupational safety and health hazards.
 - (ii) Establish and communicate a clear goal for the safety and health program and the mechanisms which will be utilized in meeting this goal.
 - (iii) Provide for visible top management leadership in implementing the program and ensure that all workers at the site, including contract workers, are provided equally high quality safety and health protection, so that all will understand that management's commitment is serious.
 - (iv) Provide for and encourage employee involvement in the structure and operation of the program and in decisions that affect their safety and health, so that they will commit their insight and energy to achieving the safety and health program's goal and objectives. Involvement shall be accomplished through employee collective bargaining units, where appropriate.
 - (v) Assign and communicate responsibilities for all aspects of the safety and loss prevention program to managers,

- supervisors, and employees so that they all know and understand what is expected of them in the implementation of the program.
- (vi) Provide a system to hold managers, supervisors, and employees accountable for their responsibilities under the safety and health program.
 - (vii) Provide a reliable system for employees to notify management personnel or safety and health committee members of conditions that appear hazardous or of non-compliance with the terms of the safety and health program without fear of reprisal and provide a mechanism to ensure timely and appropriate responses to correct these conditions.
 - (viii) Provide a mechanism to investigate accidents and "near miss" incidents, so that the root cause and means for preventing a recurrence are identified. For the purposes of this rule, the term "accident" means any unexpected happening that interrupts the work sequence or process and that may result in injury, illness, or property damage.
 - (ix) Provide a means to review injury and illness trends over time, so that patterns with common causes can be identified and eliminated.
 - (x) Establish a mechanism for the employer to conduct ongoing, periodic in-house safety and health inspections so that new or previously missed hazards or failures in controls are identified. Inspections shall be conducted with a frequency necessary to be effective but in no event with less frequency than that established in section 12-110-3.
 - (xi) Address the impact of emergency situations and develop written plans and procedures to insure employee safety during emergencies. For the purpose of this standard, the term "emergency situation" means an unforeseen single event or combination of events that calls for immediate action to prevent, control or contain injury or illness to person or damage to property.
 - (xii) Establish procedures for transmitting and enforcing safe work practices in the workplace through training, positive reinforcement, such as a reward system, public recognition, etc., correction of unsafe performance, and, if necessary, reinforcement of work practices through a clearly defined and communicated disciplinary system.
- (C) The program shall be made available to the employees or their collective bargaining agent or both, upon request.
- (2) Safe work practices.
- (A) The employer shall eliminate or control all existing and potential hazards within the workplace in a timely manner, using one or more of the following:
 - (i) Engineering and work practice controls designed to control employee exposures to safety and health hazards by modifying the source to reduce exposure.
 - (ii) Administrative controls designed to control employee exposure to safety and health hazards.
 - (iii) Requirements for the distribution and proper use of personal protective equipment.

- (iv) A program of medical examinations or evaluations conducted by a qualified physician or health practitioner when required by a standard.
- (B) The employer shall ensure that practices are understood by all employees and are underscored through training, positive reinforcement, correction of unsafe performance, and, if necessary, through a clearly defined and communicated disciplinary system.
- (3) Periodic inspections. The employer shall conduct periodic in-house safety and health inspections so that new or previously missed hazards or failures in engineering, work practice, and administrative controls are identified. The in-house inspections will be conducted by individuals who are trained to recognize hazardous conditions, as members of the safety and health committee or a person designated and trained by the employer for the facility's safety and health program.
- (4) Safety and health training.
 - (A) The employer shall develop and institute a safety and health-training program for all employees so they have an understanding of the hazards to which they may be exposed, and the procedures or practices needed to protect them from these hazards.
 - (B) In addition, supervisors and managers shall be trained in the elements of the employer's safety and health program and in the specific responsibilities assigned to them under the program.
 - (C) The employer shall ensure that the supervisors and managers understand their responsibilities under the safety and health program and their importance to the safety and health of the workplace. In particular, the training for managers and supervisors shall enable them to:
 - (i) Recognize potential hazards;
 - (ii) Maintain safety and health protection in the work area; and
 - (iii) Reinforce employee training on the nature of the potential hazards and required protective measures.
- (c) The use of any machinery, tool, material, or equipment that is not in compliance with any applicable requirement of the standards of part 3 of this title is prohibited. The machine, tool, material, or equipment shall either be:
 - (1) Identified as unsafe by tagging or locking the controls to render it inoperable; or
 - (2) Removed from its place of operation.
- (d) The employer shall permit only those employees qualified by training or experience to operate equipment and machinery.
- (e) Accidents shall be reported in accordance with §12-52-8.
- (f) Prime contractor and sub-contractor responsibilities.
 - (1) By contracting for full performance of a contract, the prime contractor assumes all obligations prescribed as employer responsibilities under the law, whether or not any part of the work is subcontracted.
 - (A) Where one contractor is selected to execute the work of a project, that contractor shall ensure compliance with the requirements of the standards of part 3 of this title from the contractor's own employees as well as from all sub-contractor employees on the project.
 - (B) Where the owner-builder, acting as the general contractor,

selects another person or persons to perform the work of a project, the owner-builder shall be responsible, or shall designate one particular person to be responsible, for providing the general safeguarding as well as gaining compliance with the requirements of the standards of part 3 of this title from all other persons engaged in the operation of the project.

- (2) Independent of any prime contractor's responsibilities, the sub-contractor has responsibility for occupational safety and health for the sub-contractor's operation. That is, the sub-contractor accepts responsibility for the sub-contractor's portion of the work while the prime contractor assumes the entire responsibility for the project.
- (3) Where joint responsibility exists, both the prime and sub-contractors are subject to the enforcement provisions of the law; therefore, because of possible overlapping responsibilities, both may be cited for violations.

(g) All safety devices and safeguards in use shall be kept sound and operable.

(h) Any employee having knowledge of the existence of any unsafe device, practice, operation, safeguard, equipment, or condition shall promptly report it to the supervisor or person in charge. A supervisor or person in charge to whose attention the existence of any unsafe device, practice, operation, safeguard, equipment, or condition is called shall take immediate steps to correct the unsafe condition or practice. [Eff 7/12/82; am 9/27/84; am 8/5/88; am 9/21/96] (Auth: HRS §396-4) (Imp: HRS §396-4)

§12-110-3 Safety inspections. (a) The general contractor of every construction or demolition project on which more than 30 employees are engaged shall arrange to have inspections made during the period of the project for the purpose of assuring compliance with the standards of part 3 of this title. Where there is no general contractor, the owner shall be responsible or shall designate one particular contractor to be responsible to perform the necessary safety inspections.

(b) Required inspections shall be in accordance with this schedule:

- (1) Projects employing 30 to 100 persons shall have an employee assigned to make at least one inspection each workday;
- (2) Projects employing 100 to 200 persons shall have two employees assigned, each to make at least one inspection each work day; and
- (3) Projects employing more than 200 persons shall have one designated employee for each 300 persons above 200, each to make at least one inspection each workday.

(c) Written records of the daily safety inspection shall be kept on the project site for review by the director.

(d) Warning signs shall be posted prohibiting unauthorized persons from operating potentially hazardous machines or equipment. [Eff 7/12/82; am 9/27/84] (Auth: HRS §396-4) (Imp: HRS §396-4)

§12-110-4 Employee responsibilities. The employee shall not knowingly perform work in an unsafe manner or in an unsafe environment without the safeguards prescribed by the standards in part 3 of this title. The employee shall not tamper with or render ineffective any safety device or safeguard and shall use the safety devices provided for personal protection.

[Eff 7/12/82; am 9/27/84] (Auth: HRS §396-4) (Imp: HRS §396-4)

§12-110-5 Removal of safety devices. No person shall remove, displace, damage, destroy, or carry off any safety device, safeguard, notice, or warning furnished for use in any employment or place of employment.
[Eff 7/12/82; am 9/27/84] (Auth: HRS §396-4) (Imp: HRS §396-4)

§12-110-6 Use of intoxicants or drugs. No person shall be permitted to work under the influence of intoxicants or drugs and shall be removed from the work premises if found under the influence of intoxicants or drugs.
[Eff 7/12/82; am 9/27/84] (Auth: HRS §396-4) (Imp: HRS §396-4)

§12-110-7 Requirements of competence. When work is to be performed by or under the supervision of a designated person, that person shall have the degree of competence necessary to perform or direct the work in a safe manner. [Eff 7/12/82] (Auth: HRS §396-4) (Imp: HRS §396-4)

§12-110-8 Requirement of quality. Materials, devices, structures, and methods and procedures of operation which are required in part 3 of this title and which are described by general descriptive terms such as adequate, proper, and sufficient, shall be of such kind and quality as a reasonable and prudent person experienced in the work, as appropriate, would require in order to effect a safe operation. [Eff 7/12/82; am 9/27/84]
(Auth: HRS §396-4) (Imp: HRS §396-4)